

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2002-198-C - ORDER NO. 2002-714  
OCTOBER 3, 2002

IN RE: Application of Bantex International, Inc. d/b/a	)	ORDER GRANTING
Bantel, Inc. for a Certificate of Public	)	CERTIFICATE FOR
Convenience and Necessity to Provide Local	)	LOCAL AUTHORITY
Exchange Telecommunications Services and	)	AND FLEXIBLE
for Flexible Rate Structure for its Local	)	REGULATION
Exchange Service	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Bantex International, Inc. d/b/a Bantel, Inc. ("Bantel" or the "Company") requesting a Certificate of Public Convenience and Necessity to provide resold local exchange telecommunications services throughout the State of South Carolina. In addition, the Company requests that the Commission regulate its local service in accordance with the principles and procedures established for flexible regulation by Order No. 98-165 in Docket No. 97-467-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280(B) (Supp. 2001) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed Bantel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation

in the proceedings. Bantel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on July 2, 2002.

On July 17, 2002, counsel for SCTC filed with the Commission a Stipulation in which Bantel stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Bantel provided written notice of its intent prior to the date of the intended service. Bantel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Bantel agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Bantel to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on September 25, 2002, at 11:30 a.m. in the Commission's Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. Bantel was represented by W. Walter Wilkins, Esquire. F. David Butler, General Counsel, represented the Commission Staff. Miguel Banda, President of the Company, appeared and testified on behalf of the Company.

Mr. Banda described the nature of Bantel's proposed service offering within the State of South Carolina and provided testimony regarding Bantel's financial, managerial, and technical ability to provide telecommunications services in South Carolina. The record reveals that Bantel is a South Carolina corporation.

The Company intends to offer resold local exchange telecommunications services to residential customers in the State of South Carolina, initially offering service in the Greenville area where the Company is located. The record reveals that Bantel initially plans to provide a full range of local telecommunications services to residential customers and business customers. Bantel also intends to provide local telecommunications services to consumers who have been disconnected by the incumbent local exchange carrier or by competitive local exchange carriers for non-payment, or who have failed to meet such carrier's applicable credit standards. Further, the Company is going to focus primarily on the Spanish-speaking population living in Greenville County who Bantel believes is in need of telecommunications services. All employees of the Company will be bilingual and all correspondence with customers will be in either English or Spanish.

The testimony further reveals that Bantel has never been the subject of an investigation by a state regulatory body or by the Federal Communications Commission. Mr. Banda testified that Bantel was negotiating interconnection agreements with incumbent local exchange carriers at the time of hearing.

Mr. Banda testified that Bantel's team of qualified personnel has significant experience in performing the technical functions necessary to provide local exchange service.

Regarding the Company's financial condition, Mr. Banda testified that Bantel is financially qualified to provide resold local exchange telecommunications services in South Carolina. According to the record, the Company has access to the financing and capital necessary to conduct its telecommunications operations.

In addition, Bantel requested that the Commission regulate its local exchange telecommunications services under the flexible regulatory treatment approved by Order No. 98-165 in Docket No. 1997-467-C. Specifically, Bantel requested that the Commission adopt for Bantel a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, Bantel requested that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further Order of the Commission, and that any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

Bantel requested a waiver of S.C. Code Ann. Regs. 103-631 (1976) so that the Company will not be required to publish local exchange directories. According to the record, Bantel will make arrangements with the incumbent local exchange carriers whereby the names of Bantel's customers will be included in the directories published by

the incumbent local exchange carriers. The Company also maintains its books of accounting in accordance with Generally Accepted Accounting Principles (GAAP).

The testimony reveals Bantel's presence in South Carolina as a telecommunications service provider will have a positive effect on the public interest.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Bantel is organized as a corporation organized under the laws of the State of South Carolina.
2. Bantel wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that Bantel possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2001).
4. The Commission finds that Bantel's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2001).
5. The Commission finds that Bantel will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2001).
6. The Commission finds that Bantel will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2001).

7. The Commission finds that the provision of local exchange service by Bantel “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 2001).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Bantel to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between Bantel and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, Bantel may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until Bantel provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission’s own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from

Bantel that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by Bantel in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. Bantel shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Bantel's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

Specifically, the Commission adopts for Bantel's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Bantel's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. Bantel shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. Bantel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. Bantel shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Bantel shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Bantel to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be



operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Bantel shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Bantel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. Bantel shall also file

with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2001).

8. Bantel shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.

9. Bantel requested waivers from certain Commission regulations and requirements. Specifically, Bantel requested a waiver from the requirement found in Rule 103-631 to publish and distribute local exchange directories. The Company also requested permission to use GAAP. The Commission grants the request for waiver from the requirement to publish directories as Bantel has indicated that it will contract with the incumbent local exchange company to include the customers of Bantel in the directory listing of the ILEC directory. Further, the Commission grants Bantel's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. 900 or 900-type access and placement of toll calls by customers would not be allowable over the Company's lines under the Certificate granted by us herein, which is for local calling only, unless further authority is sought by the Company.

10. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new

service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms).

11. Bantel is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

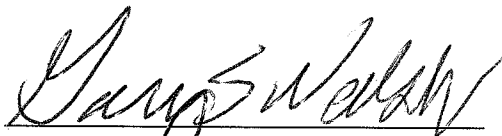
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:

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Gary E. Walsh, Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2002-198-C

Re: Application of Bantex International, Inc. )  
d/b/a Bantel, Inc. for a Certificate of Public )  
Convenience and Necessity to Provide Resold )  
Local Exchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Bantex International, Inc. d/b/a Bantel, Inc. ("Bantex International") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Bantex International's Application. SCTC and Bantex International stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Bantex International, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Bantex International stipulates and agrees that any Certificate which may be granted will authorize Bantex International to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Bantex International stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Bantex International stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Bantex International provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Bantex International acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Bantex International stipulates and agrees that, if Bantex International gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Bantex International will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Bantex International acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Bantex International, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Bantex International agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

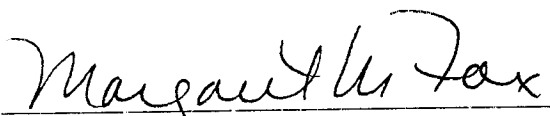
9. Bantex International hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 9<sup>th</sup> day of July,  
2002.

Bantex International, Inc. d/b/a Bantel, Inc.:

  
\_\_\_\_\_  
MIGUEL BANDA

South Carolina Telephone Coalition:

  
\_\_\_\_\_  
M. John Bowen, Jr.

Margaret M. Fox  
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Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

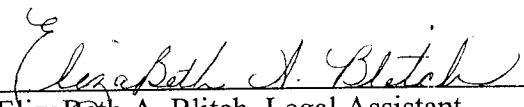
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Convenience and Necessity to Provide Resold )  
Local Exchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

W. Walter Wilkins, Esquire  
Leatherwood Walker Todd & Mann, P.C.  
The Leatherwood Plaza  
300 E. McBee Avenue, Suite 500  
Greenville, South Carolina 29601

  
ElizaBeth A. Blitch, Legal Assistant  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

17 *ELB*  
July 16, 2002

Columbia, South Carolina